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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PAINTERS DISTRICT COUNCIL NO. 16, CARPET, LINOLEUM & SOFT TILE WORKERS LOCAL UNION NO. 12,) No. CV 07-06334 MMC)) DECLARATION OF TONY TOFANI IN) SUPPORT OF PLAINTIFFS' MOTION) FOR DEFAULT JUDGMENT AGAINST) NEW BEGINNINGS FLOORS))) Date: May 2, 2008) Time: 9:00 a.m.) Judge: Maxine M. Chesney) Courtroom: 7, 19 th Floor)))
Plaintiff/Petitioner,	
v.	
NEW BEGINNINGS FLOORS,	
Defendant/Respondent.	

TONY TOFANI, under penalty of perjury, states as follows:

1. I am a business representative for Painters District Council 16 servicing Carpet, Linoleum and Soft Tile Workers Local 12.
2. Business representative Dave Figueroa requested arbitration of dispute over the payment of wages in June of 2007. A copy of that request was attached as "Exhibit A" to the Complaint.
3. New Beginnings failed to respond and our attorney David Rosenfeld sent another request on August 31, 2007 attached as "Exhibit B" to the Complaint.

- 1 4. Mr. Rosenfeld, followed up with a third request for arbitration, which was
- 2 attached as "Exhibit C" to the Complaint.
- 3 5. Attached hereto as "Exhibit 1" is the Northern California Floor Covering Master
- 4 Agreement to which Defendant is signatory. Article 23 of the Collective
- 5 Bargaining Agreement between the Union and New Beginnings Floors discusses
- 6 the handling of grievances and arbitration.
- 7 6. New Beginnings Floors is a signatory contractor to this Collective Bargaining
- 8 Agreement. Attached hereto as "Exhibit 2" is a copy of the signature page to the
- 9 Northern California Floor Covering Master Agreement, which shows that New
- 10 Beginnings Floors is a signatory to this collective bargaining agreement and
- 11 subject to Article 23.
- 12 7. The Collective Bargaining Agreement provides a grievance and arbitration
- 13 procedure whereby all disputes and misunderstandings are to be submitted to an
- 14 arbitrator for resolution.
- 15 8. New Beginnings Floors has failed to respond to all of our requests to arbitrate
- 16 this dispute despite their obligation to do so under the Collective Bargaining
- 17 Agreement between the Union and New Beginnings Floors.
- 18 9. If called as a witness I confidently testify to the above facts since they are within
- 19 my personal knowledge.
- 20
- 21
- 22

23 I declare under penalty of perjury that the foregoing is true and correct. Executed this 25th

24 day of March 2008.

25 Tony Tofani

26 TONY TOFANI

27 117798/484576

PROOF OF SERVICE

I am a citizen of the United States and an employee in the County of Alameda, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1001 Marina Village Parkway, Suite 200, Alameda, California 94501-1091. On March 25, 2008, I served upon the following parties in this action:

New Beginning Floors
Terry Majors, Owner
655 Wildrose Way
Brentwood, CA 94513

copies of the document(s) described as:

DECLARATION OF TONY TOFANI IN SUPPORT OF PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT AGAINST NEW BEGINNINGS FLOORS

[X] BY MAIL I placed a true copy of each document listed herein in a sealed envelope, addressed as indicated herein, and caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at Alameda, California. I am readily familiar with the practice of Weinberg, Roger & Rosenfeld for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection.

[] BY PERSONAL SERVICE I placed a true copy of each document listed herein in a sealed envelope, addressed as indicated herein, and caused the same to be delivered by hand to the offices of each addressee.

[] BY OVERNIGHT DELIVERY SERVICE I placed a true copy of each document listed herein in a sealed envelope, addressed as indicated herein, and placed the same for collection by Overnight Delivery Service by following the ordinary business practices of Weinberg, Roger & Rosenfeld, Alameda, California. I am readily familiar with the practice of Weinberg, Roger & Rosenfeld for collection and processing of Overnight Delivery Service correspondence, said practice being that in the ordinary course of business, Overnight Delivery Service correspondence is deposited at the Overnight Delivery Service offices for next day delivery the same day as Overnight Delivery Service correspondence is placed for collection.

[] BY FACSIMILE I caused to be transmitted each document listed herein via the fax number(s) listed above or on the attached service list.

I certify under penalty of perjury that the above is true and correct. Executed at Alameda, California, on March 25, 2008.

/s/_____
Karen Scott